

REMARKS

Applicant appreciates the continued thorough examination of the present application in the non-final Official Action of September 3, 2008. Applicant also appreciates the Examiner's indication that all of the earlier rejections have been withdrawn. However, in response to the new grounds of rejection, Applicant will now show that the claims are patentable over U.S. Patent 6,266,817 to Chaddha in view of newly cited U.S. Patent 6,639,943 to Radha et al. Accordingly, Applicant respectfully requests withdrawal of the outstanding rejections and allowance of the present application for the reasons that will now be described.

For the convenience of the Examiner, the rejections will be addressed in the order in which they were made in the Official Action, pages 2-7.

Claims 1, 11, 41 and 49 Are Patentable

Independent Claim 1 recites:

1. A multimedia distributing method comprising:
transmitting multimedia data having a first resolution; and
separately transmitting supplemental data, which, when combined with the multimedia data having a first resolution, provides multimedia content at a second resolution that is higher than the first resolution,
wherein transmitting multimedia data is performed in real or near real-time, and
wherein separately transmitting supplemental data is not performed in real or near real-time. (Emphasis added.)

Independent Claim 11 recites:

11. A method of transmitting a multimedia work comprising:
streaming a first portion of the multimedia work; and
downloading a second portion of the multimedia work, wherein the first and second portions together comprise the multimedia work.
(Emphasis added.)

As noted in the present application at page 1, lines 11-19, in streaming, the multimedia content is sent to a user in a continuous stream, and is played as it arrives. In contrast, downloading transmits the data as a computer file, which is then stored at the user device and may be played back after the entire file is downloaded. Independent Claims 41 and 49 are system analogs of Claims 1 and 11, respectively, and will not be analyzed separately.

In rejecting these claims, the Official Action states that Chaddha:
... is silent about not performing in real-time or near real-time the separate transmission of supplemental data.

Applicant respectfully submits, however, that Chaddha is not merely silent about not performing in real-time or near real-time the separate transmission of supplemental data. Rather, Chaddha actually teaches away from transmitting multimedia data in real or near real-time and not transmitting the supplemental data in real or near real-time. Similarly, Chaddha actually teaches away from streaming a first portion of the multimedia work and downloading a second portion of the multimedia work. In particular, Chaddha elaborates at col. 9, lines 21-24 that “[a]ccording to the present invention, video encoder 60 provides a single embedded stream from which different streams at different spatial and temporal resolutions and different data rates can be extracted by decoders 40, depending on decoder capabilities and requirements” (emphasis added). Further, Chaddha’s Abstract specifically states that “decoding occurs in real-time.” Chaddha, page 1 (emphasis added).

Accordingly, Applicant respectfully submits that Chaddha appears to teach a system within which the base layer data (multimedia data having a first resolution) and error data (supplemental data) are both streamed together as prioritized packets within “a single embedded information stream.” *See* Chaddha, col. 4, lines 36-37 (emphasis added); *see also*, *for example*, col. 4, lines 48-49 (“the single embedded information stream”); col. 5, lines 57-58 (“the embedded bit-stream generated by the scalable video encoder”); col. 7, lines 14-15 (“an embedded prioritized bit-stream”); col. 7, line 35 (“the transmitted embedded stream”); col. 9, line 2-3 (“the incoming embedded stream”); col. 9, lines 21-24 (“video encoder 60 provides a single embedded stream from which different streams at different spatial and temporal resolutions and different data rates can be extracted by decoders 40, depending on decoder capabilities and requirements”); col. 11, lines 7-8 (“[a] separate network stream per destination.”). Thus, Chaddha’s streaming base layer data and error data within a single embedded stream appears to teach away from transmitting multimedia data in real or near real-time and separately transmitting supplemental data in non real-time, or streaming a first portion of a multimedia work and downloading a second portion of the multimedia work.

Applicant notes that Chaddha appears to teach separately storing the reduced resolution stream from the supplemental (error) data stream on disk prior to transmission. *See* Chaddha, col. 7, lines 36-39 (“Information layout on the video disk storage system 90

preferably involves laying the video as two streams, e.g., the base layer and the first and second enhancement layer streams”) (internal reference to FIG. 1 omitted); col. 7, lines 43-44 (“The base layer data is stored as a separate stream from the enhancement layer data on disk subsystem 90”) (emphasis added); *see also* Chaddha, col. 8, lines 10-11 (“Preferably the video server uses RAID-like techniques to stripe each (data stream) across several drives.”) However, Applicant respectfully submits that Chaddha’s storing streams prior to transmission does not describe or suggest separately transmitting the low resolution data in real or near real-time and separately transmitting the error data in non real-time, as recited in Claims 1 and 41. Moreover, because Chaddha appears to teach streaming both the base layer data and error data together during transmission, Chaddha teaches away from a method in which a first portion of multimedia data is streamed and a second portion is downloaded as recited in Claims 11 and 49.

Accordingly, rather than being silent on the matter Chaddha actually teaches away from the recitations of Claim 1, 11 41 and 49. For at least these reasons, it would not be obvious to combine Chaddha with any other reference that contradicts its basic teachings.

Moreover, the Official Action also appears to misinterpret the secondary reference Radha et al. In particular, the Official Action states at page 3:

However, Radha provides a multimedia distribution method including [sic] the step of not performing in real-time or near real-time the separate transmission of supplemental data ...

Respectfully, the above-cited passage of Radha et al. (col. 6, lines 63-67, col. 7, lines 1-12) states:

...These two streams 31,32 can be combined to produce a single FGS enhancement layer stream or can be maintained as two separate streams. Either case, the resulting FGS stream(s) can be stored or transmitted in real-time.

In other words, and similar to the standard FGS case, under the hybrid structure according to the present invention, the coding of the video signal (both enhancement and base layers) can take place either in real-time (as implied by the figure) or off-line prior to the time of transmission. In the second case, the video can be stored and then transmitted (or streamed) at a later time.

However, under either scenario (i.e., real-time encoding or off-line non-real time encoding), a real time scalable video rate controller 18 is included to determine in real time the bit-rates that should be allocated for transmitting the enhancement layer frames.... (Emphasis added.)

Thus, the above-cited passage of Radha et al. states that these two streams can be combined to produce a single stream or can be maintained as two separate streams. But this passage notes "either case, the resulting FGS stream(s) can be stored or transmitted in real-time." Accordingly, the cited passage clearly states that both types of data are streamed and/or transmitted in real-time.

The above-cited passage also indicates that the video signal (both enhancement and base layers) can be transmitted in real-time or off-line. If off-line, the video can be stored and then transmitted (or streamed) at a later time. Again, however, the first and second streams are both transmitted in real-time and are both streamed.

Accordingly, Radha et al. does not supply the missing teaching in Chaddha and, in fact, is consistent with Chaddha in terms of streaming both streams in real-time.

In summary, Chaddha is not silent in the matter but rather explicitly describes streaming both streams in real-time. Radha et al. also describes transmitting two streams in real-time. Accordingly, Chaddha teaches away from the combination with Radha et al., and even if the references were combined, the recitations of Claims 1, 11, 41 and 49 simply would not be described or suggested.

Claims 19, 24 and 31-34 Are Patentable

Claims 19, 24 and 31-34 are patentable for at least the same reasons that were described above in connection with Claims 1, 11, 41 and 49. This analysis will not be repeated for the sake of brevity. However, Applicant wishes to discuss the following additional comment that was provided in the Official Action at page 4, lines 4-7:

...The applicant should also note that Chaddah [sic] in disclosing a payment for service in col. 12, lines 5-20 where a global prioritization must take place, inherently provide the streaming and downloading. To the examiner, the downloading takes place as the user pay for what he/she is willing to pay.

This cited passage of Chaddha states:

In the even [sic] of scarcity of resources, some global prioritization of user requests must take place to guard against overload collapse. In a practical system, payment for services and resources may be used to define the overall value of each resource allocation decision. Given these values, a total ordering of the user request can be made, e.g., by admission control 110, and the less important requests can be dropped. The user specifies what

he or she is willing to pay for a given service. This proposed amount and the required associated resources (network and disk bandwidth) are submitted to an electronic market, e.g., admission control 110, which uses micro-economic models to decide what amount of bandwidth resource is available to the user. Such techniques are known in the art, e.g., M. Miller, "Extending markets inward," Bionomics Conference, San Francisco, Calif. (October 1994). (Emphasis added.)

This passage clearly states that what a human user ("he or she") is willing to pay will determine the prioritization of user requests. However, this passage does not appear to say anything about separately streaming and downloading, and certainly does not say anything to negate the explicit teachings of Chaddha that were described above in connection with Claims 1, 11, 41 and 49. Accordingly, Applicant respectfully requests withdrawal of the rejection of claims 19, 24 and 31-34 for these additional reasons.

Claims 20-21, 53-54 and 60 Are Patentable

Claims 20-21, 53-54 and 60 are patentable for at least the same reasons that were described above. This analysis will not be repeated for the sake of brevity.

Claims 2-3, 12-13, 48, 50, 54-56 and 61-63 Are Patentable

Claims 2-3, 12-13, 48, 50, 54-56 and 61-63 are patentable for at least the same reasons that were described above. This analysis will not be repeated for the sake of brevity.

Claims 5, 26 and 43 Are Patentable

Claims 5, 26 and 43 are patentable for at least the same reasons that were described above. This analysis will not be repeated for the sake of brevity.

Claims 6, 7, 15, 16, 27, 28, 38, 39, 45, 46, 51, 52, 58, 59, 66 and 67 Are Separately Patentable

These dependent claims are patentable at least per patentability of the independent claims from which they depend. Moreover, these dependent claims are separately patentable. For example, Claim 6 recites:

6. A method according to Claim 1:
wherein transmitting multimedia data is subject to a first digital rights management scheme; and

wherein separately transmitting supplemental data is subject to a second digital rights management scheme that is different from the first digital rights management scheme.

Similar recitations may be found in Claims 15, 27, 38, 45, 51, 58, and 66.

Moreover, Claim 7 recites:

7. A method according to Claim 1:
wherein separately transmitting supplemental data is preceded by receiving payment for the supplemental data that is greater than payment that is received for the multimedia data having a first resolution.

Similar recitations may be found in Claims 16, 28, 39, 46, 52, 59, and 67.

In reference to these claims, the Office Action alleges that “Chaddha further discloses a method wherein transmitting multimedia data is subject to a first digital rights management scheme . . .” (Office Action, page 4 (citing Chaddha, col. 12, lines 5-18)). This passage was discussed above in connection with Claims 19, 24 and 31-34. Applicant respectfully submits that Chaddha’s teaching of “payment for service and resources . . . to define the overall value of each resource allocation decision” (Chaddha, col. 12, lines 7-9) within an electronic market for network and disk bandwidth (*see* Chaddha, col.12., line 14) is not digital rights management (DRM). Digital rights management focuses on a user’s right to receive and play specific media content. Payment for network service, network bandwidth, and disk bandwidth is a different concept from payment for the right to receive and play specific media content.

The Office Action (at page 4) further cites the following text from Chaddha:

The media server components include a session control agent, the audio transmission agent, and the video transmission agent. The user connects to the session control agent on the server system and arranges to pay for the video service and network bandwidth. The user can specify the cost he/she is willing to pay and an appropriately scaled stream will be provided by the server. The session control agent (e.g., admission control mechanism 110) then sets up the network delivery connections and starts the video and audio transmission agents. The session control agent 110 is the single point of entry for control operations from the consumers remote control, the network management system, and the electronic market.

Chaddha, col. 12, lines 59-67 and col. 13, lines 1-4 (emphasis added). Here again, Chaddha focuses on payment for the network provider’s (bandwidth and disk) resources, instead of payment for a user’s right to receive and play specific media content. The recitations of these claims are therefore not described or suggested.

Applicant notes the Office Action's allegation that "if the user determines that he/she want[s] supplemental data, the he/she will be paying first before receiving the requested data." Office Action, page 5 (citing Chaddha, col. 12, lines 63-65). However, as discussed above, Applicant respectfully submits that, in Chaddha, the user is not paying for supplemental data; instead, the user is paying for relative priority of usage of network resources, such as network bandwidth.

For at least these reasons, Applicant respectfully submits that Claims 6, 7, 15, 16, 27, 28, 38, 39, 45, 46, 51, 52, 58, 59, 66 and 67 are separately patentable.

Applicant also respectfully notes that although Claim 16 was not specifically rejected, it is included in the above discussion and similarly analyzed.

Dependent Claims 9 and 17 Are Separately Patentable

Claims 9 and 17 are patentable at least per the patentability of independent Claims 1 and 11, respectively, from which they depend. Further, Claims 9 and 17 are separately patentable. Claim 9 recites:

9. A method according to Claim 1:
wherein transmitting multimedia data is performed from a first multimedia server; and
wherein separately transmitting supplemental data is performed from a second multimedia server that is different from the first multimedia server.

Claim 9 is separately patentable over Chaddha because Chaddha does not appear to teach transmitting low resolution data from one multimedia server and transmitting error data from a second multimedia server that is different from the first multimedia server. The Office Action cites Chaddha, Figure 1, items 20, 55, 90, and 100 as well as Chaddha, col. 12, lines 40-48. Although Chaddha's Figure 1 does show multiple video disks (item 90) and multiple audio disks (item 100), Chaddha's Figure 1 does not show multiple transmitters. Further, Chaddha's Figure 1 does not show transmitters for low resolution data that are separate from transmitters for supplemental error data. The citation to Chaddha, col. 12, lines 40-48 also does not describe multiple transmitters. Accordingly, Claim 9 is separately patentable.

Claim 17 recites:

17. A method according to Claim 11:
wherein streaming is performed from a first multimedia server; and
wherein downloading is performed from a second multimedia server that is different from the first multimedia server.

Claim 17 is separately patentable over Chaddha because Chaddha does not appear to teach streaming from a first multimedia server and downloading from a second multimedia server. The Office Action cites Chaddha Figure 1, items 20, 55, 90, and 100 as well as Chaddha, col. 12, lines 40-48. In Chaddha's Figure 1, item 20 is a streaming server. There is no downloading server in Chaddha's Figure 1. In addition, Chaddha's Figure 1 does not show multiple transmitters. Further, Chaddha's Figure 1 does not show streaming servers that are different from downloading servers. Accordingly, Claim 17 is separately patentable.

Dependent Claims 10, 18, 30, 40 Are Separately Patentable

Claims 10, 18, 30, and 40 are patentable at least per patentability of independent Claims 1, 11, 19, and 31, respectively, from which they depend. Claims 10 and 30 are also separately patentable because they recite transmitting/receiving the multimedia data using a wireless network and transmitting/receiving the supplemental data using a wired network. Further, Claims 18 and 40 are separately patentable because they recite streaming using a wireless network and downloading using a wired network. As previously discussed with respect to Claims 11 and 31, although Chaddha appears to teach streaming, Chaddha does not appear to teach downloading, does not appear to teach separate transmission of the multimedia data and supplemental data, and certainly does not teach performing these separate operations using a wireless network and using a wired network, respectively. Accordingly, these claims are separately patentable.

Dependent Claims 22-23, 35-36, 42 and 64 Are Patentable

Claims 22-23, 35-36, 42 and 64 are patentable at least per patentability of the claims from which they depend.

Dependent Claims 4, 14, 25, 37, 44, 57 and 65 Are Patentable

Claims 4, 14, 25, 37, 44, 57 and 65 are patentable at least per patentability of the independent claims from which they depend.

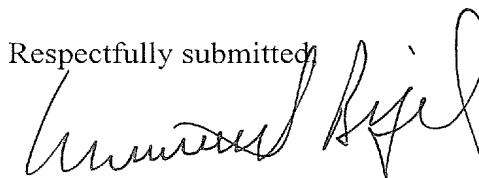
In re: Homiller
Serial No.: 10/757,247
Filed: January 14, 2004
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Conclusion

Applicant again appreciates the Examiner's indication that the earlier claim rejections have been withdrawn. Applicant has now shown, however, that the primary reference, Chaddha, is not merely silent on the claim recitations but actually teaches away from these claim recitations, and that the newly cited Radha et al. reference does not supply the missing teachings. Moreover, many of the dependent claims are separately patentable.

Accordingly, Applicant respectfully requests allowance of the pending claims and passing the application to issue. Applicant encourages the Examiner to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,



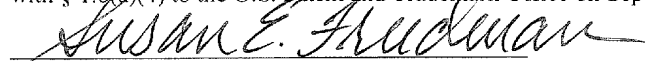
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Date of Signature: September 24, 2008